

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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	:	Master File No.:
IN RE J.P. JEANNERET ASSOCIATES, INC., et al.	:	
	:	09-cv-3907 (CM)
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	:	ECF Case
This Document Relates To:	:	
ALL ACTIONS	:	
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**DECLARATION OF JEFFREY A. ROSENTHAL IN SUPPORT
OF THE MOTION OF IVY ASSET MANAGEMENT LLC, THE BANK OF
NEW YORK MELLON CORPORATION, AND CERTAIN AFFILIATED
INDIVIDUALS TO DISMISS THE CONSOLIDATED AMENDED COMPLAINTS**

I, Jeffrey A. Rosenthal, declare under penalty of perjury under the laws of the United States of America that the following is true and correct to the best of my knowledge and belief:

1. I am a member of the Bar of this Court and a member of the firm of Cleary Gottlieb Steen & Hamilton LLP, attorneys for Defendants Ivy Asset Management LLC (“Ivy”), The Bank of New York Mellon Corporation, Lawrence Simon, Howard Wohl, Adam L. Geiger, Jeffrey R. Lindenbaum, John D. Rogers, Sean C. Simon, Kevin J. Bannon, Steven Pisarkiewicz, Robert Meschi, Susan Rabinowitz, Alan Chuang, Gregory van Inwegen, Sean Cumiskey, Stuart Davies, Joseph Burns, Mark Santero, Peter D. Noris, Farzine Hachemian, Scott E. Wennerholm, Jonathan Little, Ronald P. O’Hanley, Colleen Baldwin and Glenn Cummins (collectively, the “Ivy Defendants”). I submit this declaration in support of the Defendants’ Motion to Dismiss the Second Amended Class Action Complaint for Violations of Federal Securities Law and Common Law and the First Amended Consolidated Class

Action Complaint (collectively, the “Complaints”) to place before the Court certain documents relevant to that motion.

2. Attached hereto as **Exhibit A** is a true and correct copy of Plaintiffs’ Second Amended Class Action Complaint for Violations of Federal Securities Law and Common Law.

3. Attached hereto as **Exhibit B** is a true and correct copy of Plaintiffs’ First Amended Consolidated Class Action Complaint alleging violations of the Employee Retirement Income Security Act (“ERISA”).

4. Attached hereto as **Exhibit C** is a true and correct copy of the Agreement dated May 15, 1991 between J.P. Jeanneret Associates, Inc. and Ivy and all amendments thereto.

5. Attached hereto as **Exhibit D** is a true and correct copy of the Agreement dated December 1, 2007 between J.P. Jeanneret Associates, Inc. and Ivy.

6. Attached hereto as **Exhibit E** is a true and correct copy of the Discretionary Investment Management Agreement between Plumbers & Steamfitters Local 267 Pension Fund and J.P. Jeanneret Associates, Inc., dated July 1, 1996.

7. Attached hereto as **Exhibit F** is a true and correct copy of the Discretionary Investment Management Agreement between Plumbers & Steamfitters Local 267 Insurance Fund and J.P. Jeanneret Associates, Inc., dated July 1, 1996.

8. Attached hereto as **Exhibit G** is a true and correct copy of the Discretionary Investment Management Agreement between Buffalo Laborers Pension Fund and J.P. Jeanneret Associates, Inc., dated April 19, 1995.

9. Attached hereto as **Exhibit H** is a true and correct copy of the Income Plus Fund Offering Memorandum, dated December 15, 1993.

10. Attached hereto as **Exhibit I** is a true and correct copy of the Income Plus Investment Fund Offering Memorandum, dated November 1, 2003.

11. Attached hereto as **Exhibit J** is a true and correct copy of the Decision & Order, dated November 30, 2009, in Baker v. Andover Associates Management Corp. et al., Index. Mo. 6179/09 (Sup. Ct. Westchester County Nov. 30, 2009).

12. Attached hereto as **Exhibit K** is a true and correct copy of Plaintiffs' May 11, 2009 letter to the Court enclosing a copy of the Complaint in People ex. rel. Cuomo v. Ivy Asset Management, et al., No. 450789/2010 (Sup. Ct. N.Y. County filed May 11, 2010).

13. Attached hereto as **Exhibit L** is a true and correct copy of the Plea Allocution of Bernard L. Madoff in U.S. v. Madoff, No. 09 Cr. 213 (DC), Dckt. #50 (S.D.N.Y. filed March 12, 2009).

14. Attached hereto as **Exhibit M** is a true and correct copy of the Criminal Information in U.S. v. Dipascali, 09 Cr. 764 (RJS), Dkt. # 7 (S.D.N.Y. filed Aug. 11, 2009).

15. Attached hereto as **Exhibit N** is a true and correct copy of the Complaint in Picard v. Picower et al., Adv. Pro. No. 09-1197 (BRL) (Bankr. S.D.N.Y. filed May 12, 2009).

16. Attached hereto as **Exhibit O** is a true and correct copy of the Complaint in SEC v. Chais, No. 09 Civ. 5681 (S.D.N.Y. filed June 22, 2009).

17. Attached hereto as **Exhibit P** is a true and correct copy of the Complaint in Picard v. Merkin, Adv. Pro. 09-1182 (BRL) (Bankr. S.D.N.Y. filed May 7, 2009).

18. Attached hereto as **Exhibit Q** is a true and correct copy of Report No. OIG-509 by the United States Securities Exchange Commission, Office of Investigations, titled “Investigation of Failure of the SEC to Uncover Bernard Madoff’s Ponzi Scheme – Public Version –,” dated August 31, 2009.

Executed: June 30, 2010
New York, New York

s/Jeffrey A. Rosenthal
Jeffrey A. Rosenthal